IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 705/2006

BALBEER SHARMA Vs. STATE OF RAJASTHAN

DATE: 18.01.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. D.C. Gupta for the accused-petitioner.
Mr. Ashwani Kumar Sharma, PP for the State.

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Brief facts of the case are that the petitioner is the owner of M/s J.K. Engineering Works, Bharatpur and took a loan from the Rajasthan Financial Corporation, Bharatpur (for short 'RFC'). The controversy arose when the RFC lodged a FIR in the police station on 15.05.2001 for the offence under Section 406 IPC. Investigation commenced and after investigation, the police submitted final report before the Magistrate as no offence is made out against the petitioner, but the learned Magistrate took cognizance against the petitioner for the offence under Section 406 IPC on 19.04.2002 and the date was fixed for framing the charge.

Thereafter the petitioner submitted an application on 23.12.2005 before the RFC and the RFC

issued a letter No. 2485 dated 03.01.2006 to the effect that on verification it is found that no amount is due against the petitioner and the dues were wrongly shown against him and the account is accordingly corrected. The RFC also submitted an application on 01.02.2006 before the trial Court stating therein that there is no outstanding against the accused-petitioner and no dues certificate was also submitted along with the application. In spite of this fact, the trial Court has framed charge for the offence under Section 406 IPC against the petitioner vide order dated 24.03.2006 and this order is under challenge in this revision petition.

I have heard learned counsel for the accused-petitioner, learned Public Prosecutor for the State and have also carefully gone through the impugned order dated 24.03.2006 passed by the trial Court. I have also perused the relevant record.

As per the record, it appears that outstanding amount which was shown against the petitioner was on account of mistake and the same has been corrected and no dues certificate has been issued by the RFC and these documents were produced before the trial Court but the same have not been properly appreciated and since no criminal breach has been committed by the

petitioner, the charge which has been framed by the trial Court against the accused-petitioner, is per se contrary to the record and the facts of the case. As no dues certificate has been submitted by the RFC, no charge under Section 406 IPC is made out and the trial Court has wrongly framed the charge under Section 406 IPC against the accused-petitioner.

Thus, the impugned order dated 24.03.2006 passed by the trial Court is absolutely erroneous and contrary to the record and the same is liable to quashed and set-aside.

Consequently, the revision petition stands allowed and the impugned order dated 24.03.2006 is herewith quashed and set-aside.

Record be sent back forthwith.

(K.S. RATHORE),J.

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